



10/751,566

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Atty. Docket: MPM / 03

Inventor: Pete M. Morgan, Kristi L. Davidson

Title: PLANT SUPPORT

**CERTIFICATE OF MAILING BY EXPRESS MAIL - 37 CFR 1.10**

'Express Mail' mailing label number: EV354970514US

Date of Deposit: January 5, 2004

I certify that this paper or fee (along with the enclosures noted herein) is being deposited with the United States Postal Service 'Express Mail Post Office to Addressee' service under 37 CFR 1.10 on the above date and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth Eads  
By: Kenneth Eads (person mailing paper)

**UTILITY PATENT APPLICATION TRANSMITTAL**

*Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450*

This is a request for filing, under 37 CFR § 1.53(b), a(n):

**EV354970514US**

- ☒ **Original (non-provisional) application.**  
☐ Divisional of prior application Serial No. \_\_, filed on \_\_.  
☐ Continuation of prior application Serial No. \_\_, filed on \_\_.  
☐ Continuation-in-part of prior application Serial No. \_\_, filed on \_\_.

**PRELIMINARY AMENDMENT/CALCULATION OF FEES**

- ☐ Please cancel claims \_\_ without prejudice, and prior to calculating the fees. \_\_ total claim(s), of which \_\_ is(are) independent, is(are) pending after the amendment.
- ☐ Please enter the enclosed preliminary amendment identified below prior to calculating the fees. \_\_ total claim(s), of which \_\_ is(are) independent, is(are) pending after the amendment.
- ☒ **Small Entity Status is Requested**
- ☒ **The Fees are Calculated as Follows:**

Fee:	Number of Claims:	In Excess of:	Extra:	At Rate:	Amount:
Total Claims	45	20	25	\$18	\$450.00
Independent Claims	3	3	0	\$86	\$0.00
MULTIPLE DEPENDENT CLAIM FEE					
BASIC FEE					\$770.00
TOTAL OF ABOVE CALCULATIONS					\$1,220.00
REDUCTION BY 50% FOR FILING BY SMALL ENTITY					\$610.00
TOTAL					\$610.00

**ENCLOSURES**

- ☒ Utility Patent Application Transmittal Form (in duplicate) containing Certificate of Mailing By Express Mail Under 37 CFR 1.10.
- ☒ Return Postcard.

APPLICATION PAPERS

- ☒ Utility Patent Application, with: cover sheet, 24 page(s) specification (including 45 total claim(s), of which 3 is(are) independent, and 1 page(s) abstract).
- ☒ Drawings: 5 sheet(s) of formal drawings (11 total figure(s)).
- ☐ Microfiche Computer Program (Appendix).
- ☐ Nucleotide and/or Amino Acid Sequence, including (all are necessary): Computer Readable Copy, Paper Copy (identical to computer copy), and Statement verifying identity of copies.
- ☒ An Executed Declaration, Power of Attorney and Petition Form.
- ☐ Copy of Executed Declaration, Power of Attorney and Petition Form from prior application identified above.
- ☐ Certified Copy of priority document(s) identified as attached above.

ADDITIONAL PAPERS

- ☒ Assignment to Pete M. Morgan, 1500 Clovernoll Drive, Cincinnati, OH 45231, Recordation Cover Sheet (Form PTO-1595)
- ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i)
- ☐ Preliminary Amendment (to be entered prior to calculation of fees)
- ☐ Information Disclosure Statement,     sheet(s) Form PTO-1449,     U.S. Patent Reference(s),     Foreign Patent Reference(s) and     Other Reference(s)
- ☐ Other:

CHECKS

- ☒ A Check of \$610.00 for the filing fee.
- ☒ A Check of \$40.00 for the assignment recording fee.


**DEPOSIT ACCOUNT AUTHORIZATION**

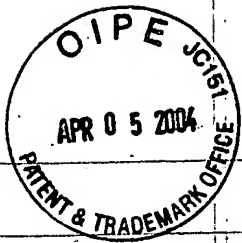
- ☐ Please charge Deposit Account No. 23-3000 in the amount of     .
- ☒ The Commissioner is authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required during the entire pendency of the application, or credit any overpayment, to Deposit Account No. 23-3000. A duplicate of this transmittal is attached.
- ☐ THE PAYMENT OF FEES IS BEING DEFERRED.
- 

WOOD, HERRON & EVANS, L.L.P.  
2700 Carew Tower  
441 Vine St.  
Cincinnati, Ohio 45202  
(513) 241-2324

KLD/slh

Respectfully Submitted,

  
Kristi L. Davidson  
Reg. No. 44,643



10/751,566

3-26-04

U.S. Dept of Commerce  
Patent & Trademark Office  
Washington D.C. 20231

RECEIVED  
APR - 8 2004  
OIPE/JCWS

To Whom it may Concern

DEAR SIR: Enclosed is a ~~improvement~~  
I had the "WOOD HERRON & EVANS" HERE  
in Cntr. to prepare 3-22-04 letter I  
received from them she is wrong I authorized  
it. But because of so many other factors  
I changed my mind & told her not to process  
the application & I never will have it any  
other way

I would like for you to destroy all the  
paperwork prepared by them should it or if  
you want to. I just want it destroyed  
because there is just too many mistakes in the  
drawings & other places. I have another  
lawyer that is familiar with this situation  
& can straighten it out. & it is all messed  
up. I have paid them \$641.05 & have no desire  
for them to do anything else. Respectfully  
& consistently told them not to  
file it.

Pete M. Margo

WOOD, HERRON & EVANS, LLP

BRUCE TITTEL  
DONALD F. FREI  
DAVID J. JOSEPHIC  
DAVID S. STALLARD  
J. ROBERT CHAMBERS  
GREGORY J. LUNN  
KURT L. GROSSMAN  
CLEMENT H. LUKEN, JR.  
THOMAS J. BURGER  
GREGORY F. AHRENS  
WAYNE L. JACOBS  
KURT A. SUMME  
KEVIN G. ROONEY  
KEITH R. HAUPT  
THEODORE R. REMAKLUS  
THOMAS W. HUMPHREY  
SCOTT A. STINEBRUNER  
DAVID H. BRINKMAN  
BEVERLY A. LYMAN, Ph.D.

OF COUNSEL  
JOHN D. POFFENBERGER  
THOMAS W. FLYNN



2700 CAREW TOWER  
441 VINE STREET  
CINCINNATI, OHIO 45202-2917

TELEPHONE: 513-241-2324

FACSIMILE: 513-241-6234

EMAIL: info@whepatent.com

PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1976  
EDWARD B. EVANS 1936-1971

JOSEPH R. JORDAN  
C. RICHARD EBY  
DAVID E. PRITCHARD

J. DWIGHT POFFENBERGER, JR.  
KATHRYN E. SMITH  
KRISTI L. DAVIDSON  
P. ANDREW BLATT, Ph.D.  
DAVID E. JEFFERIES  
WILLIAM R. ALLEN, Ph.D.  
JOHN PAUL DAVIS  
DOUGLAS A. SCHOLER  
BRETT A. SCHATZ  
DAVID W. DORTON  
LARRY D. MOORE  
SARAH OTTE GRABER  
WESLEY L. STRICKLAND\*  
STEVEN W. BENINTENDI, Ph.D.

TECHNICAL ADVISOR  
HENRY M. LABODA, Ph.D.  
\*ADMITTED ONLY IN D.C. AND VA

March 22, 2004

Mr. Pete Morgan  
1500 Clovernoll Drive  
Cincinnati, OH 45231

Re: Invoice for Services Rendered

and

U.S. Patent Application directed to  
**PLANT SUPPORT**  
Our Ref.: MPM-03

Mr. Morgan:

Enclosed herewith is a copy of the patent application and transmittal papers, as filed with the U.S. Patent and Trademark Office on January 5, 2004, following our meeting of the same date. Also enclosed herewith is a final invoice for our services, including the filing fees paid to the Patent Office for your application. We are in receipt of your letter of January 31, 2004, though we are not able to understand it in its entirety. From your letter, and a subsequent conversation, I am under the impression that you feel you did not authorize the filing of your application. However, you met with us in our offices on January 5, 2004, and signed all the necessary paperwork to file the application. At that meeting, we informed you that the application would be filed that day, and you did not object. We regret that you have a misunderstanding on that issue, but the application was in fact filed, and is now pending at the Patent Office. We have not yet received the filing receipt, but will forward it to you once we do receive it.

Mr. Pete Morgan  
March 22, 2004  
Page 2 of 2

If you do not wish to continue to pursue the application, you should understand that the application will remain pending until you take steps to expressly abandon it, or until you fail to respond to an action, when such action is issued. Also, your application will be published, and thus publicly available, approximately 18 months after its filing date unless expressly abandoned well in advance of that date.

With regard to Invoice Number 424877 mailed on January 20, 2004, the invoice total of \$5,821.02 is a fair and reasonable price for the professional services rendered to you in connection with the preparation of the application. In fact, the original invoice total was \$6,481.02, but I gratuitously provided you with a discount of \$660.00.

A second invoice is enclosed herewith, Invoice No. 427451, which includes the fees for attorney time for our January 5, 2004 meeting and the out-of-pocket costs for filing your application with the U.S. Patent and Trademark Office. Again, I will offer you a gratuitous discount of \$599.00, which equals the fees for the attorney time spent meeting with you. The remainder of the invoice is the out-of-pocket expenses that we incurred on your behalf and with your authorization, and we expect such costs to be reimbursed.

We regret that you paid Mr. Brandenburg a large sum of money and received little or nothing in return. However, Wood, Herron & Evans did prepare and file an application on your behalf, which application you both reviewed and approved, and reimbursement for our services and costs is both fair and expected, regardless of your past or current situation with Mr. Brandenburg.

Let me take a moment to remind you of the client engagement letter we sent to you dated August 25, 2003. In that letter we asked you to agree to reimburse us for certain costs we pay on your behalf (i.e., filing fees) and to pay our bills and invoices upon receipt. That letter (copy enclosed) was signed by you indicating your agreement with these principles. We expect you to honor that agreement by paying these invoices, just as we honored it in representing you.

If you have any questions regarding this letter or our invoices, please do not hesitate to contact me or Keith Haupt.

Very truly yours,



Kristi L. Davidson

KLD/dcg  
Enclosures  
cc: Keith R. Haupt, Esq. (w/o enclosures)

WOOD, HERRON & EVANS, LLP

JOHN D. POFFENBERGER  
BRUCE TITTEL  
DONALD F. FREI  
DAVID J. JOSEPHIC  
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SARAH OTTE GRABER  
WESLEY L. STRICKLAND

TECHNICAL ADVISOR  
HENRY M. LABODA, Ph.D.

August 25, 2003

Mr. Pete Morgan  
1500 Clovernoll Drive  
Cincinnati, OH 45231

Re: Engagement Confirmation

Dear Mr. Morgan:

This letter will confirm our oral understanding about the representation of you by Wood, Herron & Evans, L.L.P. We will represent you in connection with the preparation and prosecution of a patent application directed to a vine support structure initially, and possibly further preparation and prosecution of additional gardening and/or farming-related inventions.

We will perform legal services for you only as to specific matters identified by you, and only when requested to do so by you. The scope of our responsibility for each such matter will be specified by you; if no such specification is made, we will perform such services as we believe appropriate for the particular matter in the circumstances of the request. We will not be responsible for any legal matters relating to you unless they are covered by such a request. Of course, you may reduce or terminate our services at any time, either generally or with respect to specific matters.

The rules governing our practice require us, in addition to confirming our engagement, to set forth our billing practices. We want our clients to understand our billing statements and to feel comfortable asking questions about them. Accordingly, I encourage you to call me if you have questions about this letter or any statements we send to you.

Mr. Pete Morgan  
August 25, 2003  
Page 2 of 3

Our fees to you will be based principally on the number of hours devoted to services to you by our timekeepers, times their normal hourly rates in effect at the time of their services. Our hourly rates presently range from \$150.00 per hour for junior lawyers (less for paralegals) to \$390.00 per hour for our most experienced lawyers. These rates may be adjusted by us from time to time without prior notice. I will be the lawyer primarily responsible for our work for you. My present hourly rate is \$210.00. We may also utilize other lawyers of our firm to perform services for you when this will produce results efficiently and at the lowest rates appropriate for the tasks to be performed.

We will expect you to reimburse us for our expenses incurred, for example, long distance telephone calls, postage, delivery charges, LEXIS and Westlaw fees, photocopying, word processing, telecopying, court reporting fees, filing fees, travel, and advances for consulting and expert witness fees (when required by the demands of the engagement). From time to time, there may be expenses that we will ask you to pay directly. Occasionally, a month's statement may not include expenses incurred in that month but which have not yet been recorded in our records. In that case, we will cover such expenses with a later statement.

It is our firm's policy to estimate the fees and expenses likely to be incurred in the representation and request that you send us a check in that amount before we undertake the representation. We will deposit the check in our Client Trust Account. We will then bill our services and expenses against the trust balance. If the actual fees and expenses incurred exceed our estimate, we will bill you in addition for these fees and expenses. If there is a balance left in the trust account upon completion of the representation, we will return the difference to you. If the representation will require additional services or be of a continuing nature or if we anticipate that the fees and expenses will exceed our estimate, we will ask you for an additional deposit to the Client Trust Account so as to maintain a positive balance before performing additional services. We estimate the initial fees and expenses for the work you wish us to undertake to be \$2,000 for the application. After filing of the application, further fees and expenses will be incurred, and we will provide you with estimates at the appropriate time.

Our statements will be sent as promptly as possible after the end of a month for fees and expenses incurred during that month. Unless you advise us otherwise, statements will be sent to you. Our statements are due on receipt.

If this is satisfactory to you, please sign and return the enclosed copy of this letter along with your check in the amount of \$2,000 made payable to **Wood, Herron & Evans, L.L.P. Client Trust Account** for patent preparation.



WOOD, HERRON & EVANS, LLP

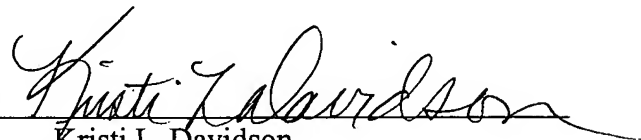
Mr. Pete Morgan  
August 25, 2003  
Page 3 of 3

In closing, I want to encourage you to feel comfortable calling me at any time with any questions or problems regarding our handling of this engagement.

Thank you for calling on us. We welcome the opportunity to work with you.

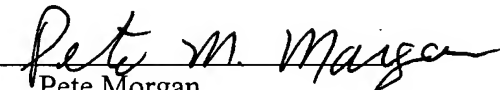
Very truly yours,

WOOD, HERRON & EVANS, L.L.P.

By   
Kristi L. Davidson

KLD/dcg  
Enclosures

Agreed:

By   
Pete Morgan